

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No.: 2009-11890
Issue No.: 2021
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
November 2, 2009
Macomb County DHS (36)

ADMINISTRATIVE LAW JUDGE: Linda Steadley Schwarb

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on November 2, 2009. Claimant appeared and testified.

ISSUE

Did the Department of Human Services (DHS or department) properly determine that claimant is no longer eligible for SSI-related Medical Assistance (MA) due to excess assets?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

- 1) Claimant is a recipient of ongoing SSI-related MA in a group of two.
- 2) In November of 2008, claimant owned a 2006 Impala purchased for \$3,000.00 (Claimant Exhibit A) and a 2007 Impala purchased for \$2,200.00 (Claimant Exhibit B).

- 3) In November of 2008, claimant had a Huntington Free Checking Account with a balance of \$35.55 (Department Exhibit #3).
- 4) On or about November 8, 2008, the balance of claimant's Huntington 50 Plus Checking Account was \$365.02. (Beginning balance of \$1,075.02 minus withdrawals of \$710.00 on November 7, 2008 - Department Exhibit #2.)
- 5) On at least one day during the month of November of 2008, claimant's countable assets were less than the group's asset limit of \$3,000.00 (\$35.55 from the Huntington Free Checking Account, \$365.02 from the Huntington 50 Plus Checking Account, and \$2,200.00 value of the 2007 Impala equals \$2,600.50).
- 6) On December 20, 2008, the department notified claimant that, effective January 3, 2009, his MA would be terminated due to excess assets.
- 7) On December 29, 2008, claimant filed a timely hearing request to protest the department's proposed negative action.
- 8) Thereafter, the department deleted its proposed negative action pending the outcome of the instant hearing.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Departmental policy in effect in December of 2008 was as follows:

SSI-Related Adult
SSI-Related MA

An adult fiscal and asset group are: ...

- The adult and his spouse ...

PEM Item 211, Page 5.

Assets

Assets must be considered in determining eligibility for... SSI-related MA categories ...

Assets means cash, any other personal property and real property...

Countable assets cannot exceed the applicable asset limit...

You must consider the assets of each person in the asset group.
PEM Item 400, Page 1.

Asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested...

If an ongoing MA recipient or active deductible client has excess assets, initiate closure. However, delete the pending negative action if it is verified that the excess assets were disposed of. Payment of medical expenses, living costs and other debts are examples of ways to dispose of excess assets without divestment.

PEM 400, Page 4

SSI-Related MA Asset Limit

For all other SSI-related MA categories the asset limit is: ...

- \$3,000.00 for an asset group of two.

PEM 400, Page 5.

Vehicle Value SSI-Related Only

The value of a vehicle is its equity value. Equity value is the fair market value minus the amount legally owed in a written lien provision.

Liens must be on record with the Secretary of State or other appropriate agency...

SSI-Related MA Vehicle Exclusions

Exclude one motorized vehicle owned by the asset group. If the asset group owns multiple motorized vehicles:

- Use the “Employment Asset Exclusions” first, then
- From any remaining motorized vehicles, exclude the one with the highest equity value.

PEM 400, Page 23.

Verification

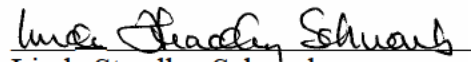
Vehicles

Blue Book or NADA Book Wholesale (trade-in) Value...
Statement of vehicle dealer or junk dealer, as appropriate.
PEM 400, Page 36.

In this matter, departmental policy provides that asset eligibility exists for purposes of SSI-related MA when the asset group’s countable assets are less than or equal to the applicable asset limit at least one day during the month being tested. PEM Item 400, Page 4. In this case, claimant’s asset group’s countable assets did dip below the group’s asset limit of \$3,000.00 at least one day during the month being tested. As such, claimant was asset eligible during the period in question. Accordingly, the department’s determination in this matter must be reversed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services improperly determined that claimant was no longer eligible for SSI-related Medical Assistance due to excess assets. Accordingly, the department’s determination in this matter is hereby reversed.


Linda Steadley Schwarz
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 2, 2010

Date Mailed: February 3, 2010

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

LSS/pf

cc:

